

China Syndrome

By Art Levy - 10/1/2007

Three years ago, it seemed like a great idea. Hybrigenics, a formidable company in the business of discovering drugs, agreed to collaborate with scientists at a renowned research facility in Shanghai. Celebrated with handshakes and smiles, the arrangement was to draw on the strengths of both partners: The Chinese would share their extensive knowledge of plant extracts, and scientists at Hybrigenics would teach them how to screen the extracts and determine which ones held the potential for new drugs.

A. Donny Strosberg, Hybrigenics founder and then-CEO, went to China and saw for himself that the Shanghai Institute of Materia Medica was a “very sophisticated place with skilled scientists and top equipment.” After his scientists showed the Chinese how to screen the extracts, they went home and waited to see what the Chinese would come up with. “We taught them everything we could,” says Strosberg, now a professor of infectology at the Scripps Research Institute in Palm Beach County. “Maybe they found something, but we never heard back from them.”

And he doesn't expect to, either. Strosberg shrugs off the lost time, money and potential and says it's one of the risks of doing business in China. Perhaps, he says, the Chinese scientists used his screening technology and discovered an important drug. He has no way of knowing. For him, though, “it was just a total washout.”

Florida's intellectual property attorneys are hearing stories like Strosberg's more frequently these days. Anat Hakim, a partner in Foley & Lardner's intellectual property group, expects she'll keep hearing them as Florida's bioscience industry grows and more companies spin off from Scripps, the Torrey Pines Institute for Molecular Studies and the Burnham Institute for Medical Research. Hakim thinks China — which this year is expected to overcome Germany to have the world's third-largest economy — will play a role in many of these spinoffs, either through financing, outsourcing or collaboration.

Hakim, who works out of Foley & Lardner's Jupiter office, about a mile from Scripps, says companies are wrong to assume that intellectual properties are protected in China just because the companies have patents and trademarks registered in the United States. The laws are different in China, and companies doing business there need to register in China. If not, there's little a company can do to keep another company from stealing its ideas.

Despite these concerns, American companies will continue to do business in China, says Catherine Sun, who heads Foley & Lardner's Asian practice. It's the lure, she says, of low taxes, inexpensive utilities and cheap labor. In fact, the projected growth of American companies doing business in China is a major reason why the firm recently filed an application with China's Ministry of Justice to open an office in Shanghai. Holland & Knight already has an office in Beijing.

Even Strosberg won't rule out a return to China — only next time he'd go about it differently. For one thing, it would have to be a straight outsourcing situation. He would also either spend more time in China himself or have someone working there for him he fully trusts. “You have to protect yourself very well,” he says. “But you also have to build up trust, and that's much harder.”